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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2022/2023

UPP4722 – PROFESSIONAL PRACTICE II

(All Sections / Groups)

10 JULY 2023

Reading Time: 9.00 a.m. – 9.15 a.m.
(15 Minutes)

Answering Time: 9.15 a.m – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** on the question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 4 pages with 5 Questions, including an appendix [Compendium].
3. This paper consists of two parts. **PART A is COMPULSORY**. For **PART B**, students shall attempt **THREE** questions. The distribution of the marks for each question is given.
4. Students are only allowed to bring in a **CLEAN** and **ORIGINAL COPY** of the following statutes into the exam venue:

- | | |
|--|----------------------------------|
| (a) Probate and Administration Act 1959 | (g) Civil Law Act 1956 |
| (b) Wills Act 1959 | (h) Contracts Act 1950 |
| (c) Distribution Act 1958 | (i) Court of Judicature Act 1964 |
| (d) Small Estate (Distribution) Act 1955 | (j) Limitation Act 1953 |
| (e) Public Trust Corporation Act 1995 | (k) Road Transport Act 1987 |
| (f) Rules of Court 2012 | |

“Clean” is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

SECTION A: COMPULSORY**QUESTION 1**

On 18 March 2018, at approximately 7.30 a.m., Nami was riding her motorcycle bearing registration number BHA 6154 along the main road travelling straight ahead. Meanwhile, Grey was driving a car bearing registration no. BFH 784 along the minor road and was about to cross the junction onto the main road from left to right. Grey emerged from the minor side road onto the main road and collided with Nami. There was a stop sign and a white stop line at the junction.

Nami contended that Grey was wholly negligent in suddenly entering the main road without stopping. In the sketch plan, the broken glass was found in Nami's lawful path. Grey stated in his police report that he had slowed down and given a signal before entering the main road. He contended that Nami had failed to keep a proper lookout. The damage on Grey's car was on the right side whilst the front bumper of Nami's motorcycle was totally damaged.

Nami sought treatment at a private hospital. She initially went to a government hospital but did not receive the timeous treatment there despite being in agony. The main injury suffered by Nami was (1) Closed fracture distal 3rd radius with 1 cm muscle wasting; (2) Amputation of the right little finger; and (3) Scarring to the right distal forearm. Nami was hospitalised for 1 month and had to pay RM18,000 for her medical bill. Even after being discharged from the hospital, Nami was still unable to work. She was given another two months of medical leaves. She continued to take 3 months of unpaid leaves to fully recover.

At the time of the accident, Nami was an unmarried woman. She was 42 years of age and had been employed as a clerk by a company called Grand Line Sdn. Bhd. At the time of the accident, Nami's gross earning was RM3,000 per month. RM330 was deducted for EPF contribution while her employer had contributed RM390 per month. She spent RM240 per month on petrol, RM430 per month on food and RM400 per month on car instalments.

Post-recovery, Nami had to be transferred to another department as she was no longer suitable to be a clerk. Her salary was reduced to RM2,000 per month and RM220 was deducted for EPF contribution. Her employer contributed RM260 per month to EPF. Nami is suing Grey for general and special damages (including the cost of repairing her motorcycle – RM1,000) sustained by her as a result of the accident.

Prepare a letter of opinion as a solicitor for Grey's insurance company advising them on the liability and quantum of damages.

(Total: 40 marks)

Continued...

SECTION B: Answer any THREE Questions only.**QUESTION 2**

Orange died on 9 September 2018 due to a heart attack. By her will, she left all her real and personal properties to her husband, Rambo (20%) and two daughters, Melon and Mango (40% each). Rambo who was Orange's husband from the second marriage was named as the executor. Melon and Mango are not on good terms with Rambo as they feel that Rambo will never be able to replace the position of their late father, Durian.

The grant of probate was made in favour of Rambo and extracted on 20 December 2018. However, Rambo did not do anything to administer the estate of Orange. When Melon and Mango enquired about it, Rambo always gave all types of excuses. Melon and Mango also found out that a double-storey house at Putrajaya held in the joint names of Orange and her sister, Apple had been purportedly sold by Apple for a sum of RM900,000 after Orange's death. Apple retained 50% of the purchase price which should belong to the estate of Orange. Despite Melon and Mango's strong objection, Rambo did not take any action to recover the estate's share of the purchase price.

- (a) Illustrate what action Melon and Mango can take in respect of the failure of Rambo, the executor in administering the estate of Orange.

(14 marks)

- (b) Illustrate the procedures to commence a suitable legal action by Melon and Mango against Rambo.

(6 marks)

(Total: 20 marks)

QUESTION 3

Teddy Beh came from a family of four siblings: Panda Beh, Paddington Beh, Cola Beh, and Teddy Beh. Their parents passed away some years ago.

The eldest brother, Panda Beh has a daughter, Lala Beh. The second brother, Paddington Beh has a son, Mocha Beh. The third brother, Cola Beh has two daughters, Milk Beh, and Sugar Beh. Teddy Beh was the youngest in the family and he was not married.

In April 2023, Panda Beh, Cola Beh, and Teddy Beh were involved in a serious accident. Panda Beh and Teddy Beh died on the spot at the same time. Cola Beh struggled in the hospital for two days before he breathed his last.

Paddington Beh wants to know how Teddy Beh's estate would be distributed. Apply the relevant legal principles in your advice to Paddington Beh.

(Total: 20 marks)

Continued...

QUESTION 4

Rumi was appointed as the administrator of his late father's estate pursuant to letters of administration granted to him on 22 December 2022. During his lifetime, Rumi's father, as the registered owner of two parcels of land, had entered into a sale and purchase agreement to sell the said lands to Kuzi's late father. Their late fathers were best friends.

Pursuant to the sale, Kuzi's father lodged a private caveat on the two parcels of land. As Rumi's father passed away without applying for consent to transfer, the sale agreement remained uncompleted.

Rumi wished to remove the private caveat in order to administer the said lands. Kuzi did not agree and contested that Rumi had yet to have the said lands registered in his name qua administrator could not apply to remove the private caveat affecting the said lands.

- (a) Illustrate Rumi's legal right or power as a personal representative of his father's estate.

(15 marks)

- (b) In the event Rumi has yet to obtain any relevant letter of representation, show if he has the right as a beneficiary to administer his father's estate.

(5 marks)

(Total: 20 marks)

QUESTION 5

Angel executed a will appointing Jasmine as the executrix and trustee of her will. Upon execution of the will, Angel gave Jasmine a photocopy of her will for Jasmine's safekeeping. The original copy of the will was kept at the office of Angel's Solicitors, M/s. Bak, Baik and Associates.

Angel died a few years later while Jasmine was transferred to Doha from Kuala Lumpur by her employer. A year after Angel's death, Jasmine returned to Malaysia and wished to apply for the grant of probate. Hence, she went to M/s. Bak, Baik and Associates to give necessary instructions, but she later found out that the said solicitors' office had ceased its business.

At the same time, she received a notice to revoke her executorship filed by one of the beneficiaries, Blue. Blue alleged that the delay in applying for the grant had prejudiced all beneficiaries' rights including Angel's youngest brother, Marco, who will turn 18 years old in January 2024.

Jasmine seeks your advice as to what she should do to proceed with the application for the Grant of Probate. Prepare an advice for Jasmine.

(Total: 20 marks)

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APPENDIX [COMPENDIUM]

Injury	Low	High
Humerus	12,000	27,500
Olecranon	12,000	30,000
Radius	12,000	30,000
Ulna	9,500	27,500
Radius and ulna	21,500	36,000
Carpal (scaphoid/lunate/pisiform)	5,000	8,500
Metacarpal (hand)	4,000	6,000
Phalange (finger)	4,000	14,500

Injury	Low	High
Amputation of any 1 finger at proximal phalange	12,000	18,500
Amputation of any 1 finger at distal phalange	9,500	12,000
Amputation of middle and ring fingers at proximal phalange	21,500	24,000
Amputation of middle and ring fingers at distal phalanges	14,500	17,000
Amputation of 3 – 4 fingers	24,000	36,000

Extensive scarring to leg	9,500	18,000
Extensive scarring to arm	12,000	24,000
Facial scarring	6,000	36,500
Operation scars	2,750	12,000
Haematoma / Contusion	1,200	2,500
Skin grafting	12,000	30,000
Lip laceration	1,000	3,000
Avulsion of fingernails 1-2	1,500	2,000
Avulsion of fingernails 3-5	3,000	5,000
Avulsion of toe nails 1-2	1,000	2,000

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